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Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by France Libertes: Fondation Danielle Mitterrand, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11131

Please recycle

The human rights violations in the case of Roşia Montană

The right to access information, the right to public participation in decision making and the right to have access to justice concerning environmental matters have all been violated in Romania, in the case of Roşia Montană[1]. These rights are enshrined, among others, in Principle 10 of the Rio Declaration (1992) and in Article 25[2] of the International Convenant on Civil and Political Rights. If nothing is done to stop this abuse, serious consequences would be inevitable for the inhabitants of Roşia Montană and the surroundings, consequences that will negatively affect the right to a healthy environment and the right to safe drinking water and sanitation.

Roşia Montană is the oldest mining settlement in Romania – as proved by documents dated from the year 131 A.D. - and has an invaluable natural, cultural and historical heritage. Faced with the refusal of the Romanian authorities to enlist the site on the tentative list of UNESCO World Heritage Sites, the importance of the archaeological site and the imminent danger of destruction which threatens it, led the NGO Europa Nostra to include Roşia Montană on the list of "The Seven most Endangered Sites in Europe"[3].

The Roşia Montană case started on the 5th of September 1995, when the state company Regia Autonomă a Cuprului (RAC) Deva published in a newspaper a public auction announcement for a partnership with a foreign capital company for a mining project in Roşia Montană. However, the contract between RAC Deva and the Canadian company Gabriel Resources was already signed one day before the announcement was made[4]. In addition, the mineral resources of Roşia Montană have been traded on the stock market without the prior consent of their owner, the Romanian state[5]. Afterwards, RAC Deva and Gabriel Resources joined forces to create the company Euro Gold Resources, which later became Roşia Montană Gold Corporation (RMGC).

At Roşia Montană, RMGC plans to create the largest open pit mining site in Europe, using 250,000 tons of cyanide. The residues and the waste rock that will result from the mining process will be stored in a lake which will occupy an area of approximately 400 hectares and a 185-meter-high dam will be built[6].

The project would involve the displacement of 2,156 people (958 families), the demolition or displacement of ten churches and nine cemeteries and the destruction of many archaeological remains. In addition, the Corna Valley would be engulfed in tons of residues and waste resulting from the mining operations. About one hundred families in the region have already agreed to be displaced, most of them after being put under severe pressure by RMGC. As a direct consequence of the planned mining project, social relations in the community have been severely damaged. Many families fear that soon enough there will not be enough inhabitants to maintain the school and basic health services[7].

A series of studies[8] conducted by scientists, associations and institutions emphasize that the potential private benefits in the case of Roşia Montană do not justify the risks involved. This mining project should be abandoned before it causes

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[1] Report submitted to the Aarhus Convention Compliance Committee
http://www.fanfest.ro/~rmorg/sites/default/files/nereguli_procedura_evaluare_mediu_rosiamontana.pdf

[2] Which is not limited to the right to vote; see point 8 of the General observation no. 25 of the Human Rights Council
http://www1.umn.edu/humanrts/gencomm/french/f-HRC-comment25.htm

[3] See the link : http://www.europanostra.org/7-most-endangered/

[4] See the link : http://www.riseproject.ro/articol/documentele-confidentiale-ale-afacerii-rosia-montana/

[5] See the link : http://rosiamontana.org/sites/default/files/Raport_TOTULdespreProiectulRM_site_0.pdf

[6] See the link : http://www.cdep.ro/pls/dic/site.page?id=590

[7] See the link : http://www.cdep.ro/pls/dic/site.page?id=591

[8] See the links : : http://www.cdep.ro/img/rosiam/pdfs/comments_hung.pdf ;
http://www.cdep.ro/img/rosiam/pdfs/rezolutii_ICOMOS.pdf ;
http://www.cdep.ro/img/rosiam/pdfs/studiu_impact1.pdf ;
http://www.cdep.ro/img/rosiam/pdfs/fe_pv.pdf ; http://www.cdep.ro/img/rosiam/pdfs/decl_AR.pdf ;
http://rosiamontana.org/sites/default/files/Anex1__Akeryod_Jones_biodiv_Ro.pdf

devastating and irreversible consequences such as: pollution, which will result in the contamination of water, the destruction of ecosystems and which will affect the health of the population; irreversible destruction of cultural heritage; mutilation of the landscape and increased seismic risks.

There are alternatives to the mining project and they can help boost the overall development of the region and insure economic progress while at the same time protecting its socio-cultural, natural and historical heritage.

Alburnus Maior is an NGO based in Roşia Montană. It was created in 2000 and represents the interests of peop'e from Roşia Montană and from the surroundings, who oppose the mining project. Thanks to the efforts of this NGO, the mining project, which was originally planned to start in 2004, is still on stand-by today.

Several final court decisions canceled illegal documents (the planning permit, the General Land-use Planning of Roşia Montană, etc.). However, the local authorities have ignored these court decisions, providing new documents to replace the ones that had been legally canceled[9].

In addition, in September 2013, the Government has proposed a special law project[10] that offered the mining company RMGC derogatory prerogatives compared to those applicable to other economic operators, which would have resulted in violations of property rights, of the right to a healthy environment, of the right to have access to justice and an equal treatment before the law. Such a law would have also violated the United Nations principles related to expulsion and displacement of populations for reasons of economic development[11]. However, the bill was rejected by the MPs, who were pressured by large peaceful demonstrations against it which took place in Romania and among the Romanian diaspora.

In addition, it should be noted that in May 2013, one of the largest insurance companies in the world, Allianz Group, refused to insure the mining project[12] and, moreover, since December 2013, the mining company RMGC is the subject of a criminal investigation for money laundering[13].

The extractive mining industry is a non-sustainable development practice in terms of impact on the environment and on people. Pollution of surface water and groundwater and depletion of water sources are the main damages due to mining activity. A report[14] made by the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and waste notes with concern the risks related to cyanide mining. Indeed, many incidents causing massive cyanide spill (including Baia Mare in Romania in 2000 and Ajka in Hungary in 2010) and the negative consequences of past and current gold mining exploitations using cyanide are additional arguments to stop a mining project that would be so destructive for the environment.

The right to safe drinking water is a fundamental right recognized by the United Nations[15] and this right is one of the most affected by the practices of extractive industries. In the case of Roşia Montană, the right to safe drinking water threatens to be violated[16]. The right to economic development cannot be invoked to justify the violation of the right to drinking water. The water pollution directly undermines other rights such as the right to health, a healthy nutrition and a healthy environment. Starting the Roşia Montană mining project would undoubtedly entail the violation of these rights.

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[9] See the link : http://www.rosiamontana.org/sites/default/files/prezentarePP_procese_mai2013.pdf

[10] Bill no. PLx549/2009 provided to supplement the Mining law no. 85/2003

[11] A/HRC/4/18

[12] See the link : http://voxpublica.realitatea.net/politica-societate/victorie-pentru-rosia-montana-in-germania-grupul-allianz-nu-si-asuma-riscurile-proiectului-rmgc-foto-video-93249.html

[13] See the link : http://www.riseproject.ro/articol/corporatia-rmgc-cercetata-penal-intr-un-dosar-amplu-de-spalare-de-bani/

[14] A/HRC/21/48

[15] A/RES/64/292 ; A/HRC/RES/15/9 ; A/C.3/68/L.34/Rev.1.

[16] Robert E. Moran, Ph.D. « Review of the Rosia Montana Environmental Impact Assessment Report with a focus on water and water quality-related issues »
http://www.fanfest.ro/~rmorg/sites/default/files/2.raport_Moran_final.pdf

Our organizations call on:

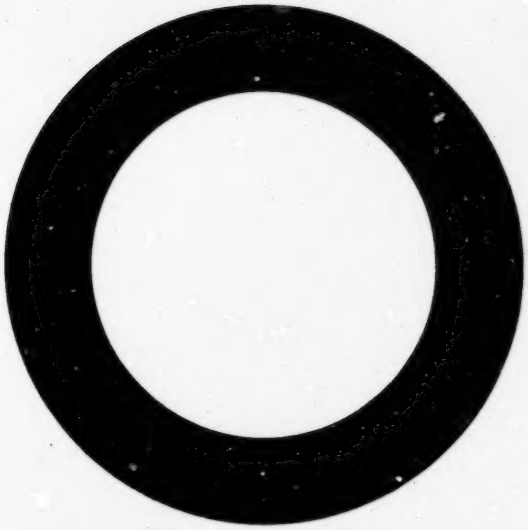
- the Special Rapporteur on the human right to safe drinking water and sanitation ;
- the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health ;
- the independent expert on human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment ;
- the Special Rapporteur on the situation of human rights defenders.

to turn their attention to the situation in Roșia Montană and the serious violations of human rights which have already occurred and which would undoubtedly increase if the mining project were to start.

Concerned by this dramatic situation, we ask the Romanian state to apply the following recommendations:

- respect the fundamental rights of the people , including the right to a healthy environment and the right to public participation ;
- respect and enforce the fundamental right to safe drinking water.

Alburnus Maior and Mouvement Utopia NGO(s) without consultative status, also share the views expressed in this statement.



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Human Rights Council
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Human rights situations that require the Council's attention

Written statement* submitted by the Baha'i International Community, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11118

1411118

Please recycle

Accusations against the Bahá'í Community in Iran

In October 2013, the Islamic Republic of Iran produced a lengthy response to the interi. report of the Special Rapporteur, Dr. Ahmad Shaheed, to the 68th session of the U.N. General Assembly. Part . f this document addressed the situation of the Bahá'ís in Iran in an erroneous manner.[1] Thus the Bahá'í International Community feels it is necessary to dissipate the misrepresentations contained in that document.

Despite the Iranian government's assurances that "the citizenship rights of other faiths including Bahá'ís are entirely observed" and that "no individual is expelled from university or sent to a prison for merely holding certain beliefs", the systematic action of the government to oppress Bahá'ís and deny them of the very rights it claims to uphold are well documented.

In order to justify its actions to the community of nations, Iran has made false allegations that Bahá'ís are targeted only if they violate the rights of others, or that their exercise of religious expression somehow violates the rights of others. Iran asserts that Article 23 of the constitution forbids the "molestation" and "investigation" of a person for simply holding a belief; however, its application is conditional on the "observance of duties and legal responsibility". Which "duties and legal responsibilities" expected of Iranians are allegedly not upheld by Bahá'ís?

Moreover, what Iran omits is that Article 14 of the same document is then used to justify the persecution of non-Muslims judged to be "engaging in conspiracy or activity against Islam", excluding them from the protection of the Constitution. Since belief in the Bahá'í Faith is considered heresy, the Iranian government designates allegiance to, or practice of, the faith as illegal and then justifies its oppression of Bahá'ís on the basis of their being engaged in illegal activities. In effect, this allows judges to criminalize the faith, which is reflected in charges brought against members of the Bahá'í community throughout Iran. Mr. Sarang Ettehadi, for example, was charged with "propaganda against the regime". When Mr. Ettehadi appeared before the court in January 2014, the judge unlawfully annexed an additional crime of "membership in an illegal organization in order to disturb national security". Both charges are solely based on Mr. Ettehadi's membership in the Bahá'í Faith. For the judge, a gathering of Mr. Ettehadi and two of his friends to say prayers amounted to "propaganda against the regime" and could "disturb national security". Can it not then be concluded that Iran's assertion that the rights of Bahá'ís are observed is a mere pretence?

Iran, again, cites Article 23 of the Iranian constitution to prove that students are not denied an education for holding a certain belief; however, they continue to enforce circulars that require school administrators to dismiss or expel students once it is discovered that they are Bahá'ís. The policy is based on a confidential memorandum dated 25 February1991, written by the Secretary of the Supreme Council of the Cultural Revolution (SCCR) drafted under the instructions of the Supreme Leader to create a concrete policy "devised in such a way that everyone will understand what should or should not be done". The memorandum explicitly states that, as concerns the Bahá'ís "**the Government's dealing with them must be in such a way that their progress and development are blocked".** It then specifically instructs when it comes to the education of Bahá'í youth that **" preferably, they should be enrolled in schools which have a strong and imposing religious ideology"** and **"they must be expelled from universities, either in the admission process or during the course of their studies, once it becomes known that they are Bahá'ís".**

Iran claims that it does not deny anyone access to education on account of religion. However a 2006 letter sent to 81 universities by the Ministry of Science, Research, and Technology not only explicitly refers to the 1991 Memorandum, but further states that **"if Bahá'í individuals, at the time of enrolment at university or in the course of their studies, are identified as Bahá'ís, they must be expelled from university. Therefore, it is necessary to take measures to prevent the further studies of the aforementioned [individuals] and forward a follow-up report to this Office".**[2] In January this year, a Bahá'í university student received a letter from the same Ministry informing him that he may no

[1] See http://shaheedoniran.org/wp-content/uploads/2013/09/Comments-by-the-Islamic-Republic-of-Iran-on-the-draft-report-of-the-Special-Rapporteur.pdf

[2] Both documents can be found at http://www.bic.org/key-documents-government-islamic-republic-iran-regarding bahai-community

longer attend university "for reasons of belief". That we cannot provide the student's name for fear of reprisals against him clearly indicates the climate in the country.

It is alleged that Bahá'ís "are active and commit illegal and provocative activities in the Iranian universities, defying laws of the higher education system of Iran" and that these violate article 19(2) and article 18(3) of the ICCPR: public safety, public order, public health, public morals, fundamental rights and freedoms of others, rights and reputations of others, national security. Which of these are Bahá'ís accused of violating at Iranian universities? –All of them? The government has never cited cases to substantiate this. Where is the evidence of activities inciting 'sentiments of majority of university students, professors and administrative staffs, leading to disturbance of university order'? Which international human rights and domestic Iranian laws do the Bahá'ís violate?

As a result of being unable to bring forth any real evidence of illegal activity to the con..nunity of nations, Iran has had to resort to mistranslating and using letters out of context that are addressed to the Bahá'í youth by the Universal House of Justice. Here, two points need to be clarified. Firstly, in the Bahá'í Faith there is no clergy. Rather, the affairs of Bahá'í communities are guided and administered by elected and appointed bodies that operate on the local, national, and international levels. The Universal House of Justice is the international governing council of the Bahá'í Faith and its supreme administrative body. Iran has taken upon itself the right to proclaim that, the governing body of a faith, the Universal House of Justice, whose seat is outside of Iran, is an "outlawed organization", and any guidance received from them is an illegal activity. This is an outright disregard of freedom of religion or belief.

Secondly, these letters, used as evidence by Iran, are in fact messages by the Universal House of Justice intended to encourage and give hope to the Bahá'í youth who otherwise face obstacles created as a result of the persecution and prejudice imposed on them by their own government. Iran, however, in quoting from the letters, mistranslates the term "teaching" into "propaganda", then uses it out of context to appear as a diabolical scheme and illegal activity, which in turn is used to justify the expulsion or outright denial of university education to Bahá'í students.

The government has also attacked and outlawed the Bahá'í Institute for Higher Education (BIHE), which was established out of necessity by a community that had no other way to educate its youth. BIHE is solely for Bahá'í students, therefore the government's concern that Bahá'ís will influence fellow classmates is clearly a means to deny them education. What else could this suggest but a plan to suffocate the Bahá'í community and use education as one of its primary tools?

If the Iranian government indeed upholds the Islamic doctrine that "investigation of belief is strongly forbidden", why then are Bahá'ís prohibited from engaging in a wide-ranging number of trades and professions and from being employed in the civil service, solely on account of their religion? Why are Bahá'í-owned businesses summarily shut down, business licenses denied to Bahá'ís, and those Muslims who employ, or lease business space to, Bahá'ís harassed by Iranian government officials into firing their Bahá'ís employees or terminating their leases?

In what ways has the Government upheld the right of Bahá'ís and others to manifest their religion in public and in community with others in accordance with article 18(1)? This specifically includes the right to manifest in "worship, observance, practice and teaching". Ironically, Iran cites section 3 of Article 18 of the ICCPR to give merit to their justification; yet they ignore the preceding text that recognizes the right to believe in the religion of one's choice. Service to others and to society, and responding to questions posed by interested fellow Iranians, are part of the spiritual duty of the Bahá'í Faith. The right to practice and teach one's faith is enshrined in Article 18 and, as a signatory, Iran must uphold this right.